

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7740

Petition of Vermont Electric Power Company, Inc. and)
Vermont Transco LLC ("VELCO"), for a waiver under)
30 V.S.A. § 248(k) to allow for the emergency)
installation of H-frame poles on the VELCO K-41 line in)
Highgate, Sheldon, Enosburg, Berkshire and Richford,)
Vermont)

Hearing at
Montpelier, Vermont
June 24, 2011

Order entered: 6/24/2011

I. INTRODUCTION

On June 20, 2011, Vermont Electric Power Company, Inc. and Vermont Transco LLC (collectively, "VELCO"), filed a petition for a waiver, pursuant to 30 V.S.A. § 248(k), to allow for the emergency replacement of twelve existing H-frame pole structures and the installation of three new H-frame pole structures on VELCO's K-41 line in the Towns of Highgate, Sheldon, Enosburg, Berkshire and Richford, Vermont.

The petition was served on the governmental bodies required to receive notice pursuant to 30 V.S.A. § 248(a)(4)(C). The Public Service Board ("Board") appointed me as Hearing Officer to conduct the preliminary hearing on the request for a waiver, and to prepare a Proposal for Decision in this Docket. An expedited preliminary hearing was held as scheduled on June 24, 2011, after providing notice to the petitioner and governmental bodies specified in subsection (a)(4)(C) of 30 V.S.A. § 248.

At the June 24 hearing, VELCO presented evidence in support of its request for a waiver. The Department of Public Service ("Department") and the Agency of Natural Resources ("ANR"), which are the only other parties to this proceeding, agreed that the Board should issue the requested Section 248(k) waiver, with conditions that the parties agreed to at the hearing. The parties also agreed that, in order to expedite a decision, the Board could issue a summary order, with findings and a complete discussion to follow at a later date.

II. DISCUSSION AND CONCLUSION

Section 248(k) provides that:

(k)(1) Notwithstanding any other provisions of this section, the board may waive, for a specified and limited time, the prohibitions contained in this section upon site preparation for or construction of an electric transmission facility or a generation facility necessary to assure the stability or reliability of the electric system or a natural gas facility, pending full review under this section.

(2) A person seeking a waiver under this subsection shall file a petition with the board and shall provide copies to the department of public service and the agency of natural resources. Upon receiving the petition, the board shall conduct an expedited preliminary hearing, upon such notice to the governmental bodies listed in subdivision (a)(4)(C) of this section as the board may require.

(3) An order granting a waiver may include terms, conditions and safeguards, including the posting of a bond or other security, as the board deems proper, considering the scope and duration of the requested waiver.

(4) A waiver shall be granted only upon a showing that:

(A) good cause exists because an emergency situation has occurred;

(B) the waiver is necessary to provide adequate and efficient service or to preserve the property of the public service company devoted to public use;

(C) measures will be taken, as the board deems appropriate, to minimize significant adverse impacts under the criteria specified in subdivisions (b)(5) and (8) of this section; and

(D) taking into account any terms, conditions and safeguards that the board may require, the waiver will promote the general good of the state.

(5) Upon the expiration of a waiver, if a certificate of public good has not been issued under this section, the board shall require the removal, relocation or alteration of the facilities subject to the waiver, as it finds will best promote the general good of the state.

The evidence presented at the June 24 hearing demonstrates that, under the specific circumstances presented, an emergency situation has developed and that, with the conditions set forth in the Order below, the Section 248(k) criteria for granting a waiver have been met.

Findings and a discussion in support of today's Order will be issued at a later date. The parties have waived the opportunity to comment and present argument on this Proposal for Decision in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this _____ day of _____, 2011.

Kurt Janson, Esq.
Hearing Officer

III. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that, pursuant to 30 V.S.A. § 248(k), the prohibition of 30 V.S.A. § 248(a)(2) against site preparation for and construction of the replacement of twelve existing pole structures and the addition of three mid-span structures on Vermont Electric Power Company, Inc. and Vermont Transco LLC's (collectively, "VELCO") K-41 line in the towns of Highgate, Sheldon, Enosburg, Berkshire, and Richford, Vermont, prior to the issuance of a certificate of public good, is waived, subject to the following conditions:

1. The pole structures shall be installed in accordance with the evidence submitted by VELCO in this proceeding.
2. Prior to commencing any site preparation or construction work, VELCO shall have all impacted areas not in actively farmed agricultural fields surveyed by a qualified botanist. (Pole structures not in actively farmed agricultural fields are: structure numbers 435, 424, 421, 377, 376, 338, 333x, 328x; see Exh. VELCO-Dunn-2). All rare, threatened or endangered plants identified in the survey shall be flagged and avoided. If avoidance is not feasible, VELCO shall develop a mitigation plan in consultation with the Agency of Natural Resources ("ANR"). The mitigation plan shall include, at a minimum, provisions for: collection and planting of seeds; relocation of impacted plants; and care and maintenance of relocated plants.
3. VELCO shall consult with ANR regarding the selection of the botanist to perform the above-referenced survey.
4. All work in wetlands or their buffers shall be performed in accordance with Vermont Wetlands Rules and VELCO's Environmental Guidance Manual.
5. VELCO shall file, within one year of the date of this Order, a petition for a certificate of public good authorizing the replacement of twelve existing pole structures and the addition of three mid-span structures and such other upgrades as VELCO determines are required on the K-41 line. If VELCO does not file such a petition, VELCO shall remove the fifteen pole structures that are the subject of this Order within one year of the date of this Order.
6. This waiver shall last until the Public Service Board has completed its examination of VELCO's petition to upgrade the K-41 line referred to in Paragraph No. 5, above.

Dated at Montpelier, Vermont, this 24th day of June, 2011.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: June 24, 2011

ATTEST: s/ Susan M. Hudson

Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.